

## SENATE SUBSTITUTE TO HB 340

AS PASSED SENATE

A BILL TO BE ENTITLED  
AN ACT

To amend Title 49 of the Official Code of Georgia Annotated, relating to social services, so as to provide certain eligibility requirements for Medicaid; to provide for consideration of requiring copayments from Medicaid recipients; to revise eligibility requirements for the PeachCare for Kids Program; to provide for basic dental coverage under PeachCare; to provide for optional comprehensive dental and vision coverage; to provide for certain copayments and premium amounts; to provide for a policy for increased utilization of generic drugs by participants in the program; to establish the PeachCare Extended Program; to provide for eligibility, payment, enrollment, and other criteria of the extended program; to authorize the disclosure of certain tax information; to provide for civil and criminal penalties for unauthorized disclosure of confidential tax information; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

## SECTION 1.

Title 49 of the Official Code of Georgia Annotated, relating to social services, is amended by revising Code Section 49-4-142, relating to the state plan for medical assistance, as follows:

"49-4-142.

(a) The Department of Community Health established under Chapter 5A of Title 31 is authorized to adopt and administer a state plan for medical assistance in accordance with Title XIX of the federal Social Security Act, as amended (Act of July 30, 1965, P.L. 89-97, 79 Stat. 343, as amended), provided such state plan is administered within the appropriations made available to the department. The department is authorized to establish the amount, duration, scope, and terms and conditions of eligibility for and receipt of such medical assistance as it may elect to authorize pursuant to this article; provided, however, that children from birth through 18 years of age in families with family incomes below 125 percent of the federal poverty level shall be eligible for the program. Further, the

1 department is authorized to establish such rules and regulations as may be necessary or  
2 desirable in order to execute the state plan and to receive the maximum amount of federal  
3 financial participation available in expenditures made pursuant to the state plan; provided,  
4 however, that the department shall establish reasonable procedures for notice to interested  
5 parties and an opportunity to be heard prior to the adoption, amendment, or repeal of any  
6 such rule or regulation. The department is authorized to enter into such reciprocal and  
7 cooperative arrangements with other states, persons, and institutions, public and private,  
8 as it may deem necessary or desirable in order to execute the state plan.

9 (b) The department shall, not later than June 1, 1986, implement a modification of the state  
10 plan for medical assistance or any affected rules or regulations of the department, which  
11 modification will allow supplementation by relatives or other persons for a private room  
12 or private sitter or both for a recipient of medical assistance in a nursing home. The  
13 Department of Human Resources shall likewise modify any affected rules and regulations  
14 of the Department of Human Resources. The modification to the plan or to any affected  
15 rules and regulations shall be effective unless and until federal authorities rule that such  
16 modification is out of compliance with federal regulations. Such modification of the state  
17 plan for medical assistance or rules and regulations:

18 (1) Shall provide that a provider of nursing home services in either a skilled care facility  
19 or an intermediate care facility shall be obligated to provide a recipient of medical  
20 assistance only semiprivate accommodations which meet the other requirements of  
21 appropriate regulations;

22 (2) Shall provide that at no time can more than 10 percent of a skilled care or  
23 intermediate care facility's rooms be used for Medicaid recipients for whom a private  
24 room supplementation has been made;

25 (3) Shall provide that payments made by relatives or other persons to a provider of  
26 medical assistance for the specific stated purpose of paying the additional costs for a  
27 private room or private sitter or both for a recipient of medical assistance in a skilled care  
28 facility or intermediate care facility shall not be considered as income when determining  
29 the amount of patient liability toward vendor payments; provided, however, that the  
30 department's entitlement to payments made by legally liable third parties shall not be  
31 diminished by this modification of the state plan;

32 (4) Shall provide that no provider of medical assistance shall discriminate against a  
33 recipient of medical assistance who does not have a relative or other person who is  
34 willing and able to provide supplementation; but the provision of a private room or  
35 private sitter to a recipient when supplementation is provided shall not constitute  
36 discrimination against other recipients;

(5) Shall provide that no recipient who is transferred to or admitted to a private room because of a shortage of beds in semiprivate rooms shall be discharged because the recipient does not have a relative or other person who is willing and able to provide supplementation; and

(6) May provide that the rate charged by the provider of medical assistance to the relative or other person providing supplementation for a private room for a recipient shall not exceed the difference between the maximum rate charged by the provider for a private room to or for a private pay patient and the amount which the provider receives or will receive from the department as reimbursement for otherwise providing for the recipient's care in a semiprivate room.

(c) The department is authorized to establish drug application fees which shall be equal to the department's cost of investigating and determining whether a new drug product should be included in the Controlled Medical Assistance Drug List. Such fees shall be adjusted annually and shall be paid by the drug manufacturers at the time of application.

(d) The department shall give all due consideration to requiring copayments from recipients of medical assistance under this article in accordance with provisions of Title XIX of the federal Social Security Act of 1935, as amended, and regulations promulgated pursuant thereto."

## SECTION 2.

Said title is further amended by revising Code Section 49-5-273, relating to the creation of PeachCare for Kids Program, as follows:

"49-5-273.

(a) There is created the PeachCare for Kids Program to provide health care benefits for children in families with income ~~below 235~~ between 125 and 200 percent of the federal poverty level. Children from birth through 18 years of age in families with family incomes ~~below 235~~ between 125 and 200 percent of the federal poverty level and who are not eligible for medical assistance under Medicaid shall be eligible for the program, to be administered by the department pursuant to federal law and subject to availability of funding.

(b) No entitlement to benefits for the children covered under the program or this article shall be created by the program, nor shall this article or any rules or regulations adopted pursuant to this article be interpreted to entitle any person to receive any health services or insurance available under this program. The program shall be established subject to the availability of funds specifically appropriated by the General Assembly for this purpose and federal matching funds as set forth in federal law. The department shall operate the program consistent with administrative efficiency and the best interests of children.

(c)(1) The program shall offer substantially the same health care services available to children under Georgia's Medicaid plan, but coverage for such services shall not be provided by an expansion of eligibility for medical assistance under Medicaid. However, the program shall exclude nonemergency transportation and targeted case management services. The department shall utilize appropriate medical management and utilization control procedures necessary to manage care effectively and shall prospectively limit enrollment in the program and modify the health care services benefits when the department has reason to believe the cost of such enrollment or services may exceed the availability of funding.

(2) The program shall include vision and basic dental coverage, including examinations, x-rays, preventive care, and restorative care; provided, however, that comprehensive dental coverage shall be available to participants at a rate negotiated between the department and the care management organization providing health care services pursuant to this Code section, but not to exceed \$15.00 per participant per month. The comprehensive dental coverage shall be offered 60 days after the effective date of this Act.

(d) The department may require copayments for services consistent with federal law; provided, however, that no copayment shall be charged for preventive services and no copayments ~~or premiums~~ shall be charged for any child under six years of age. The department and the care management organization providing health care services pursuant to this Code section shall be authorized to charge a copayment of \$25.00 per visit for nonemergency room visits. Preventive services include but are not limited to medically necessary maintenance medication and monitoring for chronic conditions such as asthma and diabetes.

(e) The department shall require payment of premiums for participation in the program at a rate of 1.5 percent of a participant's family income. ~~The premiums shall not exceed the amounts permitted under Section 1916(b)(1) of the Social Security Act or federal law.~~

(f) The department may provide for presumptive eligibility for all applicant children as allowed by federal law and in a manner consistent with the provisions of this article.

(g) The department shall provide for outreach for the purpose of enrolling children in the program. Applications shall be accepted by mail or in person. All necessary and appropriate steps shall be taken to achieve administrative cost efficiency, reduce administrative barriers to application for and receipt of services under the program, verify eligibility for the program and enforce eligibility standards, and ensure that enrollment in the program does not substitute for coverage under a group health insurance plan.

(h) Any health care provider who is enrolled in the Medicaid program shall be deemed to be enrolled in the program.

(i) The department shall file a Title XXI plan to carry out the program with the United States Department of Health and Human Services Centers for Medicare and Medicaid Services. The department shall have the authority and flexibility to make such decisions as are necessary to secure approval of that plan consistent with this article. The department shall provide a copy of the plan to the General Assembly. The department shall operate this program consistent with federal law.

(j) The department shall publish an annual report, a copy of which shall be provided to the Governor, setting forth the number of participants in the program, the health services provided, the amount of money paid to providers, and other pertinent information with respect to the administration of the program. The department shall not be required to distribute copies of the annual report to the members of the General Assembly but shall notify the members of the availability of the report in the manner which it deems to be most effective and efficient.

(k) All state agencies shall cooperate with the department and its designated agents by providing requested information to assist in the administration of the program.

(l) The department, through the Department of Administrative Services or any other appropriate entity, may contract for any or all of the following: the collection of premiums, processing of applications, verification of eligibility, outreach, data services, and evaluation, if such contracting achieves administrative or service cost efficiency. The department, and other state agencies as appropriate, shall provide necessary information to any entity which has contracted with the department for services related to the administration of the program upon request. For purposes of compliance with Code Section 34-8-125, a request by any entity which has contracted with the department for services related to the administration of the program shall be deemed to be a request by a responsible official of the department and considered to be a request by the department.

(m) Nothing in this article shall be interpreted in a manner so as to preclude the department from contracting with licensed health maintenance organizations (HMO) or provider sponsored health care corporations (PSHCC) for coverage of program services and eligible children; provided, however, that such contracts shall require payment of premiums and copayments in a manner consistent with this article. The department may require enrollment in a health maintenance organization (HMO) or provider sponsored health care corporation (PSHCC) as a condition of receiving coverage under the program.

(n) The department shall develop a policy for increased utilization of generic drugs by participants in the program and negotiate a reduced patient premium rate with the care management organization providing health care services pursuant to this Code section based on such policy. The requirements under this subsection shall be completed no later than four months after the effective date of this Act.

~~(n)~~(o) The Department of Education and local boards of education shall cooperate with and provide assistance to the department and its designated agents for the purposes of identifying and enrolling eligible children in the program.

(p) Children in families with income between 200 and 235 percent of the federal poverty level who were enrolled in the program on April 16, 2007, shall remain enrolled in the program so long as eligibility requirements continue to be met."

### SECTION 3.

Said title is further amended by adding new Code sections to read as follows:

"49-5-274.

(a) There is created the PeachCare Extended Program to provide health care benefits for children in families with income between 200 and 250 percent of the federal poverty level. Children from birth through 18 years of age in families with family incomes between 200 and 250 percent of the federal poverty level and who are not eligible for medical assistance under Medicaid shall be eligible for the extended program, to be administered by the department pursuant to federal law and subject to availability of funding.

(b) Eligible recipients may purchase coverage under the extended program from the care management organization managing the PeachCare for Kids Program. The cost of such coverage shall not exceed 5 percent of the recipient's family income.

(c) No entitlement to benefits for the children covered under the extended program shall be created by such program, nor shall this article or any rules or regulations adopted pursuant to this article be interpreted to entitle any person to receive any health services or insurance available under this extended program. No state or federal funds shall be used for the extended program. The department shall operate the extended program consistent with administrative efficiency and the best interests of children.

(d) The extended program shall offer substantially the same health care services available to children under Georgia's Medicaid plan and under the PeachCare for Kids Program, but coverage for such services shall not be provided by an expansion of eligibility for medical assistance under Medicaid.

(e) The department may require copayments for services consistent with federal law; provided, however, that no copayment shall be charged for preventive services and no copayments shall be charged for any child under six years of age. Preventive services include but are not limited to medically necessary maintenance medication and monitoring for chronic conditions such as asthma and diabetes.

(f) The department may provide for presumptive eligibility for all applicant children as allowed by federal law and in a manner consistent with the provisions of this article.

(g) The department shall provide for outreach for the purpose of enrolling children in the extended program. Applications shall be accepted by mail or in person. All necessary and appropriate steps shall be taken to achieve administrative cost efficiency, reduce administrative barriers to application for and receipt of services under the extended program, verify eligibility for the extended program and enforce eligibility standards, and ensure that enrollment in the extended program does not substitute for coverage under a group health insurance plan.

(h) Any health care provider who is enrolled in the Medicaid program shall be deemed to be enrolled in the extended program.

(i) The department shall file a Title XXI plan to carry out the extended program with the United States Department of Health and Human Services Centers for Medicare and Medicaid Services. The department shall have the authority and flexibility to make such decisions as are necessary to secure approval of that plan consistent with this article. The department shall provide a copy of the plan to the General Assembly. The department shall operate this extended program consistent with federal law.

(j) The department shall publish an annual report, a copy of which shall be provided to the Governor, setting forth the number of participants in the extended program, the health services provided, the amount of money paid to providers, and other pertinent information with respect to the administration of the extended program. The department shall not be required to distribute copies of the annual report to the members of the General Assembly but shall notify the members of the availability of the report in the manner which it deems to be most effective and efficient.

(k) All state agencies shall cooperate with the department and its designated agents by providing requested information to assist in the administration of the extended program.

(l) The department, through the Department of Administrative Services or any other appropriate entity, may contract for any or all of the following: the collection of premiums, processing of applications, verification of eligibility, outreach, data services, and evaluation, if such contracting achieves administrative or service cost efficiency. The department, and other state agencies as appropriate, shall provide necessary information to any entity which has contracted with the department for services related to the administration of the extended program upon request. For purposes of compliance with Code Section 34-8-125, a request by any entity which has contracted with the department for services related to the administration of the extended program shall be deemed to be a request by a responsible official of the department and considered to be a request by the department.

(m) Nothing in this article shall be interpreted in a manner so as to preclude the department from contracting with licensed health maintenance organizations (HMO) or provider

sponsored health care corporations (PSHCC) for coverage of program services and eligible children; provided, however, that such contracts shall require payment of premiums and copayments in a manner consistent with this article. The department may require enrollment in a health maintenance organization (HMO) or provider sponsored health care corporation (PSHCC) as a condition of receiving coverage under the extended program.

(n) The Department of Education and local boards of education shall cooperate with and provide assistance to the department and its designated agents for the purposes of identifying and enrolling eligible children in the extended program.

49-5-275.

(a) As used in this Code section, the term 'return information' means any information secured by the state revenue commissioner incident to the administration of state income tax.

(b) Notwithstanding any other provision of law, the state revenue commissioner shall be permitted to disclose any return information to employees of the Department of Community Health to the extent such information is reasonably needed to verify the income of persons applying for PeachCare benefits under this title. Such information shall retain its privileged and confidential nature in the hands of such employees to the same extent and under the same conditions as that information is privileged and confidential in the hands of the state revenue commissioner. Any such employee shall be subject to the same civil and criminal penalties as those provided for divulgence of information by employees of the Department of Revenue."

#### **SECTION 4.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

#### **SECTION 5.**

All laws and parts of laws in conflict with this Act are repealed.